

THE ANALYSIS OF THE HUMAN RESOURCES MANAGEMENT IN THE ROMANIAN LEGAL SYSTEM FROM THE PERSPECTIVE OF THE COOPERATION AND VERIFICATION MECHANISM

VIORICA POPESCU*

Abstract

At 1st January 2007 when Romania joined the European Union was established a Cooperation and Verification Mechanism (further named "CVM") in order to support Romania to remedy certain shortcomings in the areas of judicial reform and fight against corruption, as well as to monitor the achieved progress through periodic reports. Though the reforms of the human resources management in the Romanian legal system were conceived in a coherent framework, the main changes in this area often did not complement each other, their implementation being sometimes inconsistent with previous measures taken.

In this context, the study aims to make a short analysis of the way in which the human resources management's reform was reflected in the European Commission's reports, pointing the measures adopted by the Romanian authorities.

Keywords: *legal system, human resources management, reform, Cooperation and Verification Mechanism, European Commission.*

Introduction

The adhesion of Romania to the European Union has drawn a series of significant mutations in the paradigm of political, socio-economic, cultural phenomena and not least in judicial system, which suffered changes in its functioning framework, expectations from citizens and civil society, attributions, responsibilities and raking the significance of the sources for performances.

In this context became very important that human resources be placed on the highest scale of values in the legal system.

The use of the entire potential of human resources can be ensured only by a performing management, based on strategic principles which would stimulate the permanent development of such potential.

The creation and management of the Romanian judicial system was more based on the normative framework and less on the processes of management and organization. It is obvious that the importance of the normative framework cannot be denied, but ignoring the need of a strategic perspective, the lack of constant preoccupations in management training of the members of the Superior Council of Magistracy has left its mark on the functioning of the judicial authority.

Today management training in justice is still neglected, judicial managers being less trained for their position. It often starts from the false idea that experience is the only teacher, and the character the only possible qualification, because there is not an effective managerial training based on scientific principles adjusted for this area. Training and perfection become even more important if we consider the evolutions of justice, the fact that it is in a continuous reformation, the accelerated rhythm of changes and pressures supported by it from the external environment rising serious problems for the courts.

Nevertheless, the complexity of the issue of human resources management for public organizations and for justice needs a rigorous approach, the purpose being the integration in the system of persons who will answer the exigencies imposed by the system, namely the performance of justice. Hence the importance of drafting and implementing in justice some strategies for

* Assistant Lecturer, PhD, Faculty of Law and Administrative Sciences, University of Pitesti, (viorica_r30@yahoo.com).

perfecting human resources management, because public organizations, as the judicial system, unlike private ones, do not have many resources available, and among those available the human resource is the most important and its performance is responsible for the efficiency of justice.

Romanian judicial system

The actual judicial organization is stated by Art 126 Para 1 of the revised Romanian Constitution¹ and is governed by Art 2 Para 2 of the Law No 304/2004², stating that justice is carried out through the following courts:

- a) The High Court of Cassation and Justice;
- b) The courts of appeal;
- c) The tribunals;
- d) The specialized tribunals;
- e) Military courts;
- f) The first instance courts.

The Public Ministry is also part of the Romanian judicial system, which according to Art 131 Para 2 of the revised Romanian Constitution corroborated with Art 1 Para 3 of the Law on judicial organization is formed by prosecutors organized in prosecutor's offices, representing its basic structure.

Art 89 Para 1 of the Law on judicial organization states that "attached to each court of appeal, tribunal, juvenile and family tribunal, a prosecutor's office shall operate". Also, attached to the High Court of Cassation and Justice operates a prosecutor's office led by a general prosecutor, assisted by a prime-prosecutor, a deputy and three counselors. The prosecutor's office attached to the High Court of Cassation and Justice coordinates the activities of the other prosecutor's offices, has legal capacity and manages the Public Ministry's budget.

The prosecutor's offices are headquartered in the place of residence of the courts to which there are attached to and have the same circumscription as these. The prosecutor's offices attached to the courts of appeal and tribunals have legal capacity and are led by a general prosecutor, and the prosecutor's offices attached to juvenile and family tribunals are led by prime-prosecutors. Nowadays in Romania there are 15 prosecutor's offices attached to the courts of appeal and 41 prosecutor's offices attached to tribunals.

Attached to every military court a military prosecutor's office shall operate. A military prosecutor's office is attached to the Military Court of Appeal, the Military Territorial Tribunal of Bucharest. Each military court has the statute of a military unit, with its own registration number.

¹ The Romanian Constitution was adopted on 21 November 1991 and published in the Official Gazette of Romania, Part I, No 233 of 21 October 1991, modified and amended by Law No 429/2003 on the revision of the Constitution of Romania, published in the Official Gazette, Part I, No 758 of 29 October 2003.

² Law No 304/2004 on judicial organization, published in the Official Gazette of Romania, Part I, No 576/29 June 2004 modified by Government Emergency Ordinance No 124/2004 published in the Official Gazette, Part I, No 168/9 December 2004, approved with modifications and amendments by Law No 71/2005, published in the Official Gazette of Romania, Part I, No 300/11 April 2005, Law No 17/2006 published in the Official Gazette of Romania, Part I, No 48/19 January 2006, Government Emergency Ordinance No 50/2006 published in the Official Gazette of Romania, Part I, No 566/30 June 2006, Government Emergency Ordinance No 60/2006 published in the Official Gazette of Romania, Part I, No 764/7 September 2006, Government Emergency Ordinance No 100/2007 published in the Official Gazette of Romania, Part I, No 684/8 October 2007, Government Emergency Ordinance No 137/2008 published in the Official Gazette of Romania, Part I 745/4 November 2008, Government Emergency Ordinance No 56/2009 published in the Official Gazette of Romania, Part I, No 381/4 June 2009, Government Emergency Ordinance No 114/2009 published in the Official Gazette of Romania, Part I, No 919/29 December 2009, Law No 202/2010 published in the Official Gazette of Romania, Part I, No 714/26 October 2010.

Romanian judicial system management

Justice is, as already shown, a public service which is natural to enjoy a proper management in the conditions of the Law on judicial organization. This management aims only aspects regarding the organization and administration, not aspects regarding the trial. According to the law the most important administrative organ is the Superior Council of Magistracy.

The Superior Council of Magistracy was created by Art 133 of the Romanian Constitution of 1991³ and acts as an authority with attributions concerning the statute of magistrates and the function of the courts.

Today, the Superior Council of Magistracy is a democratic organism with the attribution to guarantee the independence of justice, as stated by Art 133 Para 1 of the revised Romanian Constitution and Art 1 Para 2 of the Law No 304/2004.

According to the Law No 317/2004 on the Superior Council of Magistracy, it is independent and only subjects to the law in its activity. The members of the Superior Council of Magistracy answer only to judges and prosecutors for their activity performed in their position⁴.

Regarding its attributions in the management of human resources of the courts and magistrates' careers, Art 35-36 the Law on the Superior Council of Magistracy established the following powers of the plenum of the Superior Council of Magistracy:

- a) To propose to the President of Romania the appointment and dismissal of judges and public prosecutors, except for the probationary ones;
- b) to appoint probationary judges and probationary public prosecutors, based on the results obtained by them in the National Institute of Magistracy final examination;
- c) to order the promotion of magistrates to execution positions;
- d) to dismiss probationary judges and probationary public prosecutors;
- e) to propose to the President of Romania the granting of awards for magistrates, under the terms of the law;
- f) carries out any other attributions established by the law or regulation

The Cooperation and Verification Mechanism and its reflection in the management of human resources in the Romanian justice

In 2006 the European Commission in its Decision No 2006/928/EC⁵ established on 13 December the creation of a Cooperation and Verification Mechanism of progress in Romania to address specific benchmarks in the areas of judicial reform and the fight against corruption.

The first Report from the Commission to the European Parliament and the Council on Romania's progress on accompanying measures following CVM was published on 27 June 2007⁶ and stated that: *"The situation of human resources in the Romanian judicial system, as well as the management capacity at central level and at court or prosecutor's office level, continue to challenge the authorities. The SCM and the General Prosecutor's Office (GPO) are addressing these tasks.*

³ Art.133 of the 1991 Romanian Constitution stated: (1) The Superior Council of the Magistracy shall nominate Judges and Public Prosecutors for appointment by the President of Romania, except those on probation, in accordance with the law. In this case, the proceedings shall be presided over by the Minister of Justice, who shall have no right to vote; (2) The Superior Council of the Magistracy shall perform the role of a disciplinary council for Judges, in which case proceedings shall be presided over by the President of the Supreme Court of Justice.

⁴ Law No 317/2004 published in the Official Gazette of Romania, Part I, No 599/2 July 2004, subsequently modified and completed by Law No 247/2005 regarding reform in the fields of ownership and justice, published in the Official Gazette, Part I, No 653/22 July 2005.

⁵ European Commission Decision No 2006/928/EC of 13 December 2006 published in the Official Journal L 354/56 on 14 December 2006 and available at <http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:354:0056:0057:EN:PDF>.

⁶ The Report from the Commission to the European Parliament and the Council on the progress in Romania under the Cooperation and Verification Mechanism published on 27 June 2007 available at <http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2007:0378:FIN:EN:PDF>.

Staff rationalization and institutional restructuring are currently under way. Judicial authorities are usually to decide, at conceptual level, what matters fall within the general term of “court management” and how various managerial tasks shall be distributed”.

A bilateral program of technical assistance from Great Britain on the courts' management initiated an evaluation of the possible ways to improve their management. Moreover, a study on the volume of activity of the courts and prosecutor's offices served as base for an initiative of the Ministry of Justice and of the Superior Council of Magistracy to rationalize their staffing structures, with tasks far below average.

The Report also states that “in December 2006 the Superior Council of Magistracy approved a study on the work volume of the courts based on the 2005 ad 2006 statistics”. The Report indicates a significant intensification of the work volume of tribunals and first instance courts in 2006, as well as the work volume of every judge, especially for those in tribunals. The same document states that the work volume of the courts continued to decrement. Romania aims to consider the main findings in completing the study regarding the optimal work volume for every judge. The draft conclusions of a study on small courts' activity, which is under analysis

by the SCM and Ministry of Justice confirm that many of the small courts require a rationalization of their staffing structures (for some even the discontinuation of activity); hence, the re-arrangement of human resources to better reflect the actual workload of each court requires a careful balance of administrative and legislative initiatives, which have not yet materialized.

Based on the principles set by the Commission Decision and on the conclusions of the first Report on CVM, the Romanian Government adopted the Decision No 1346 of 31 October 2007 on the approval of the Action Plan for the fulfillment of the terms within the cooperation and verification mechanism of the progress registered by Romania in the area of the reform of the judiciary and of the fight against corruption⁷. On this occasion it was stated that the improvement of the human resources policies is still a priority for Romania because the situation of human resources in the Romanian judicial system, as well as the management capacity at central level and at court or prosecutor's office level, continue to challenge the authorities. The criteria which had to be considered in establishing a real policy of human resources were:

- establishing the complexity degree of cases in courts and prosecutor's offices
- establishing the optimal volume of cases per judge
- analyzing the dynamics of filling vacancies
- progressive filling of vacancies
- priority filling the vacant execution positions in courts and prosecutor's offices with the highest deficit of personnel

Also in relation with other areas regarding the specificity of human resources were stated measures of improvement such as: the organization of seminars and symposiums for the improvement of the program of professional training and the unification of jurisprudence, the consolidation of the administrative capacity of the SCM.

A second Report from the Commission to the European Parliament and the Council on progress in Romania under the Cooperation and Verification Mechanism was published on 23 July 2008 stating that “The performance of the Romanian judicial system is hampered by legal uncertainty due to many factors, including an uneven application of the law and the excessive use of emergency decrees. It will take some time for the reform to take firm root. The need for verification and cooperation will hence continue for some time. Concerning the reform of the judiciary, the Superior Council of Magistracy (SCM), as guardian of the independence of the judiciary, has been

⁷ Government Decision No 1346/31 October 2007 on the approval of the Action Plan for the fulfillment of the terms within the cooperation and verification mechanism of the progress registered by Romania in the area of the reform of the judiciary and of the fight against corruption published in the Official Gazette of Romania No 765/12 November 2007.

allocated the human and financial resources necessary to allow it to assume its core responsibilities for judicial reform including advising and acting on pressing human resource problems. Judicial reform is moving ahead but progress is uneven. The human resource situation in the judiciary is improving. The number of recruits in the National Institute of Magistracy has increased and the number of vacancies has dropped. New judges have been assigned to the Courts of First Instances. However, there are chronic and serious staff shortages in the public ministry and recruitment practices do not always work to guarantee quality of staff. The commitment to reform among key judicial institution needs strengthening: the Superior Council of the Magistracy has to take steps to foster the transparency and efficiency of the judiciary and to improve its own accountability. It must take an unequivocal position on the fight against high level corruption in the context of the current controversial political debate in Parliament. The Council still needs to develop credibility with the judiciary by offering sustainable solutions to staffing and management deficiencies. Serious staff shortages in the public ministry may call for emergency measures such as a temporary re-assignment of posts. Some elements of the recruitment procedure need to be improved to attract suitably qualified recruits”⁸.

On 12 February 2009 an Interim Report from the Commission⁹ stated that the rhythm of the reform was not maintained in relation to those stated in 2008 and there still are deficiencies regarding the deficit of personnel and the management of justice.

The same views were maintained by the Annual Report from the Commission to the European Parliament and the Council on the progress in Romania under the Cooperation and Verification Mechanism published on 22 July 2009. According to this document “a new human resource strategy for the judiciary was adopted but the situation remains a challenge for Romania in terms of the budgetary costs and in providing qualified personnel and support infrastructure. Despite these difficulties, some steps have been taken as regards the staffing situation in courts and prosecutors' offices at local level, however further improvements are needed. The Superior Council of Magistracy has intensified judicial inspections to improve the quality of justice notably with respect to ensuring uniform application and consistency across the court system. Appointment procedures and new competitions have been undertaken in line with the objectives set to provide for objectivity and high qualification. Nevertheless, the SCM must intensify its activity so as to ensure an efficient and flexible human resource policy. The impact of the new strategy cannot yet be fully assessed but increased awareness and better anticipation of problems can already be seen. Staffing constraints have been sharpened by the recent decisions of the SCM to alter the rules on secondments which in effect prevent the seconding institution to terminate the secondment of the judges or prosecutors concerned even if it faces a severe staffing problem. In addition the limited managerial possibilities of the General Prosecutor's Office with respect to promotion, disciplinary measures or transfer of staff render the restructuring of the prosecution service particularly difficult. Increased cooperation from the SCM is needed to reorganize the Prosecution Office effectively”¹⁰.

In relation to these critics, the SCM established for 2009 by Plenum Decision No 307/26 February 2009¹¹ that some of the priority directions are represented by the improvement of the

⁸ The Report from the Commission to the European Parliament and the Council on progress in Romania under the Cooperation and Verification Mechanism published on 23 July 2008 available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0494:FIN:EN:PDF>.

⁹ The Interim Report from the Commission to the European Parliament and the Council published on 12 February 2009 available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0070:FIN:EN:PDF>.

¹⁰ Report from the Commission to the European Parliament and the Council on the progress in Romania under the Cooperation and Verification Mechanism on 22 July 2009 available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0401:FIN:EN:PDF>.

¹¹ Superior Council of Magistracy Plenum Decision No 307/26 February 2009 available at http://www.csm1909.ro/csm/linkuri/06_01_2011_38006_ro.pdf since 31 October 2011.

human resources management, the organization of the courts and prosecutor's offices, as well as by the professional training of the magistrates, the following measures should be taken:

- the organization of new competitions in magistracy, according to a calendar established by the SCM;
- a rigorous analysis of requests for deployment to other courts or prosecutor's offices;
- redistribution of the vacancies in the system;
- a proposal for a legislative modification regarding the retirement of magistrates with at least 25 years of experience in justice;
- professional training of magistrates and auxiliary personnel for the proper application of the new codes' provisions;
- review of the initial training programs of the National Institute of Magistracy and of the National School of Clerks

On 20 July 2010¹² the Report from the Commission to the European Parliament and the Council shows that human resources are still a major challenge. "The recommendations of the Commission to apply emergency measures such as a transfer of vacant posts between court levels, where significant imbalances of workload occur, have not been applied but neither has Romania implemented adequate alternative measures. The Superior Council of the Magistracy (SCM) reacted to the net staff loss registered during 2008- 2009 with measures to increase both the yearly intake to the National Institute of Magistracy (NIM) and in particular through the direct recruitment of legal professionals with five years practice. Some initial steps to address the significant imbalances in workload between courts and prosecutors' offices through a structural reorganization of courts have also been taken. However, these measures are too limited in scope to produce a significant impact on the important capacity shortfalls within the judicial system and require additional measures to ensure that all new recruits meet minimum professional standards. Predictability of staff movements has not improved since July 2009 as several hundred magistrates eligible for retirement may still leave the magistracy at short notice as a legal solution to improve the predictability of retirements has not yet been found".

Considering the conclusions and key elements in the report on justice, the SCM according to its Plenum Decision No 841/30 September 2010¹³, was preoccupied with combining the recruitment of new personnel with the support of transferring the vacant posts were needed and the redistribution of the existing personnel by stimulating mobility within the system to cover the urgent needs of personnel on short term. Also it was established as measure to reduce the deficit of personnel the organization of new competitions for admission in magistracy, according to a calendar established by the NIM and identifying new means for occupying the vacant posts and drafting proposals for a new legislative modification.

As a conclusion, this complex of actions assumed the correlation of the scheme of personnel with the workload in order to allow for new, promoted or transferred employees to be directed towards the courts or prosecutor's offices with the highest workload. Moreover, the SCM redistributed the vacant posts identified in the beginning of 2009, but were no longer identified new posts, and any other identification of posts for a horizontal redistribution was postponed despite the fact that there were vacant posts fit for reallocation. Regarding NIM it was decided the increment of its capacity regarding initial and continuous training, as well as adopting measures guaranteeing professional standards for all magistrates.

¹² Report from the Commission to the European Parliament and the Council on the progress in Romania under the Cooperation and Verification Mechanism on 20 July 2010 available at http://ec.europa.eu/cvm/docs/com_2010_401_en.pdf.

¹³ Superior Council of Magistracy Plenum Decision No 841/30 September 2010 available at http://www.csm1909.ro/csm/linkuri/06_01_2011__38012_ro.pdf since 31 October 2010.

For the optimization of professional training it was ascertained the need to review the quality of training programs and the standards of recruitment.

According to the information offered by the Report from the European Commission on Justice on 22 July 2010, the SCM started to identify the courts and prosecutor's offices with the lowest workload for a potential closure and reallocation of their resources. Though, from the initial number of 41 courts and prosecutor's offices, the working group reduced the researches to a number of 9 courts out of function and 6 courts working below capacity.

In October 2010 was published the standpoint of the working group of SCM on the establishment of the proper workload and the insurance of quality activity in courts¹⁴. According to this document it was necessary the insurance of quality activity in courts because it balances the workload, dedicating adequate time for judges to solve every case, it reduces the risks of judicial errors. The implementation of this program was to be achieved starting with 2011 for a year.

Nevertheless, on 20 July 2011 in the Report from the Commission to the European Parliament and the Council on progress of Romania under the CVM¹⁵, the European Commission stated that "little tangible progress has been made since last summer in addressing recommendations by the Commission to tackle pressing capacity imbalances of the judicial system: A proposal by the Government to close a smaller number of nonviable courts was diluted by the Parliament. In addition, the Commission's call for immediate measures to reduce capacity imbalances has not been followed up systematically. Likewise, proposals to strengthen the recruitment and training of magistrates which were also developed in autumn have not yet been adopted. The National Institute of the Magistracy (NIM) has not been strengthened despite its important role in preparing for the implementation of the new codes".

This Report and the concordance with the findings of the European Commission, the SCM Plenum Decision No 679/4 October 2011¹⁶ decided the creation of a management of justice based on the principles of transparency and objectivity, in order to review the system of professional evaluation and promotion of judges and prosecutors. In order to improve the standards of training and recruiting magistrates, the SCM proposed as measures the specialization of the trainers, redistribution of posts for judges and prosecutors, and also for the other categories of personnel from the courts and prosecutor's offices which are about to be closed.

Regarding the consolidation of the institutional capacity of the NIM and the improvement of standards of recruitment and training, it was proposed the optimization of the infrastructure and logistic of the Institute, of the activity and scheme of personnel.

Even more, in 22 November 2011 the SCM approved the *Action Plan for the implementation of the Justice Sector Reform Strategy for the years 2011-2016*¹⁷. This Action Plan set the main course in human resources by pointing the measures to be taken:

- transparency and objectivity in the recruitment, promotion and evaluation
 1. reformation of the means of recruitment
 2. reevaluation and draft of the legislative framework for the improvement of the system of professional evaluation of magistrates:
 - consulting the courts, prosecutor's offices and civil society

¹⁴ The standpoints of the working group of the SCM on the establishment of the optimal workload and the insurance of quality activity in courts available at http://www.csm1909.ro/csm/linkuri/20_10_2010__35357_ro.pdf since 26 January 2011.

¹⁵ Report from the Commission to the European Parliament and the Council on the progress in Romania under the Cooperation and Verification Mechanism on 20 July 2011 available at http://ec.europa.eu/cvm/docs/com_2011_460_en.pdf.

¹⁶ SCM Plenum Decision No 679/4 October 2011 available at http://www.csm1909.ro/csm/linkuri/25_10_2011__44708_ro.PDF since 14 January 2012.

¹⁷ *Action Plan for the implementation of the Justice Sector Reform Strategy for the years 2011-2016* available at <http://www.csm1909.ro/csm/index.php?cmd=0901> on 14 January 2012.

- organizing the evaluation commissions
 - training the trainers
 - improving the secondary legislation
 - establishing the responsibilities of the courts' and prosecutor's offices' presidents if a magistrate is unable to perform his activity
3. improving the system of promotion in the High Court of Cassation and Justice
 4. establishing a new mean of evaluation for the auxiliary personnel of courts and prosecutor's offices
 - insuring an institutional effective management by creating an unitary framework of the management in courts assuming:
 - unifying the jurisprudence
 - improving the system of recruitment for the personnel in courts and prosecutor's offices
 - establishing a system of objectively appoint members in different commissions

On 18 July 2012 the European Commission in its Report to the European Parliament and the Council on the progress in Romania under the CVM¹⁸ stated that *“the level of performance in public administration in Romania is the least effective in the European Union according to the measures of the World Bank. The judicial system is affected by some of the same deficiencies. Despite certain improvements the global image is that of a lack of dynamism in approaching the issues with a real impact on the capacity of justice to solve cases quickly and consistently”*.

Among these issues are the limited capacities and pressure of the workload of judges and prosecutors, which are generalized by imbalances in the resources and differences on the workload between geographical areas and levels of jurisdictions. Other issues are related to the high number of vacant posts, the insurance of an initial training and deficiencies in the internal structure and organization of the courts and prosecutor's offices. Such efforts were made in order to solve these issues. Among these we name the organization of periodical competitions for recruitment, rationalization of certain procedures and the adoption of certain decisions to consolidate the capacity of the NIM in insuring initial training.

In 2011 a little step was taken for rationalization by closing nine redundant courts and three courts with minimum activity, as well as of the prosecutor's offices attached to them. Despite all this, the impact of the measures is minimal. Key indicators for efficiency, such as the differences in the workload and the rate of vacant posts were not improved since 2007.

The pressures in the area of resources and a conflict between executive power and judicial system in 2009 slowed the reforms and led to a high number of retirements in a moment in which the workload was constantly increasing. The judicial system does not have or developed efficient indicators of performance in order to offer information on the total necessities in the area of resources and the allocation of resources in justice. Romania has recently admitted its deficiencies, which shall be approached within a project financed by the World Bank, which will use, by the beginning of 2013 reviewed pilot-indicators for the number of cases and workload.

The SCM was not able to draft a strategy for human resources to change the structures and systems, focusing on the request for numerous personnel and resources. The Parliament contributed to this state of inertia by diminishing the content of the proposals for the restructuration of justice.

In accordance with the standpoint of the European Commission on 29 March 2012 was launched the project *“Independent analysis on the efficiency of justice”* financed by the Structural Funds through the Sectorial Operation Program for Administrative Capacity Development and implemented by the World Bank as a consultant. The main objective of the program was an analysis of the efficiency in justice from the perspective of the organization and function of its institutions, of

¹⁸ The Report from the Commission to the European Parliament and the Council on progress in Romania under the Cooperation and Verification Mechanism on 18 July 2012, available at http://ec.europa.eu/cvm/docs/com_2013_47_en.pdf.

human and material resources management and of processes supporting the system (i.e. the efficiency of the IT system) for the sustainable development of justice and the foundation of future policies in justice.

The SCM Plenum Decision No 709/23 August 2012¹⁹ for the restructuration of the courts and prosecutor's offices in order to restore the balance between the number of employees and the workload was established a human resources policy based on the conclusions of the projects "Establishing and implementing an optimal workload for judges and clerks and the insurance of the quality activity of courts" and "Independent Analysis on the efficiency of justice". In this regard was established the need to create a monitoring group for the judicial reform formed by representatives of all state powers, professional associations and civil society. It was also established the support of all activities of professional training in ethics and deontology.

Even more, for transposing into practice the principles of transparency, objectivity and professionalism, the SCM modified the Regulation for the organization of the competition for promotion as judge of the High Court of Cassation and Justice²⁰ establishing the criteria for this promotion, namely by competition within the limit of the number of vacant posts, at least 15 years of service, the lack of disciplinary sanctions.

Also, Government Ordinance No 13/2012 on the budget adjustment on 2012²¹ and Government Emergency Ordinance No 61/2012²² established a series of measures on human and financial resources necessary in justice, by allocating funds to finance the occupation of 564 vacant posts in the system.

The SCM Plenum Decision 1114/13 December 2012²³ established the criteria for redistribution of vacant posts by reducing the number of vacant posts for judges in certain courts with minimal workload in correlation with the supplementation of the number of posts for judges in overload courts. These criteria are:

- the medium workload resulted from the statistics for the current year and the past 2 years – called reference average
- the distribution to the courts with a medium workload of 100 cases above the reference average
- exclusion from the supplementation of posts of the courts with over 3 vacant posts
- the redistribution is usually made in the same jurisdiction of a Court of Appeal; if this rule is not possible the redistribution is national
- the redistribution shall be made by granting each court with one vacant post in descending order of the workload, restarting the cycle in order to achieve the reference average

The Interim Report from the European Commission to the European Parliament and the Council on the progress in Romania under the cooperation and verification mechanism published on 30 January 2004²⁴ emphasized "the general pressure exerted by the workload on the Romanian justice and the need to restructure the courts and prosecutor's offices by rebalancing the number of

¹⁹ SCM Plenum Decision No 709/23 August 2012 available at http://www.csm1909.ro/csm/linkuri/03_09_2012_51132_ro.PDF since 12 January 2013.

²⁰ Rules of organization of the competition for promotion as judge of the High Court of Cassation and Justice available at http://www.csm1909.ro/csm/linkuri/07_01_2013_53488_ro.pdf since 16 July 2012.

²¹ Government Ordinance No 13/2012 on the budget adjustment in 2012 published in the Official Gazette Part I, No 614/27 August 2012.

²² Government Emergency Ordinance No 61/2012 on the budget adjustment on 2012 published in the Official Gazette Part I, No 730/29 October 2012.

²³ SCM Plenum Decision No 1114/13 December 2012 available at http://www.csm1909.ro/csm/linkuri/14_12_2012_53227_ro.pdf since 16 January 2013.

²⁴ Report from the Commission to the European Parliament and the Council on progress in Romania under the Cooperation and Verification Mechanism on 30 January 2013 available at http://ec.europa.eu/cvm/docs/com_2013_47_en.pdf.

employees and the workload. The Government remedies the source of these issues by legislative modifications, approaching some of the special causes of a wave of new cases. Such efforts to reduce the workload in the system's pressure points can be more efficient than the tries to solve the issue by incrementing the number of judges and prosecutors, which could risk jeopardizing the recent improvements in the quality and training for the new practitioners. Another key element of reputation and responsibility of justice is the procedure of appointing the magistrates. The new provisions on the promotion of magistrates to the High Court of Cassation and Justice seem to have introduced a new strictness in the system: it seems more important to maintain the quality of competition than to remedy the gaps perceived which can be on short term".

Conclusions

The reform of justice in the area of human resources was and still is a major preoccupation of the Superior Council of Magistracy which established its priorities starting from the conditions mentioned in the verification mechanism for Romania.

The standpoints of the European Commission correctly and efficiently reflected both the progresses, as well as the vulnerabilities in justice, which determined the Romanian authorities to work together in order to continue the reforms started in 2004, despite the imminent legislative and financial obstacles.

Properly the measures proposed by the Superior Council of Magistracy aim the correction of the noticed imbalances, including the definition of a policy of personnel in accordance with the requirements of the European Commission, policy which shall consider:

- the dynamics of human resources on medium and long term reported to the actual competences;
- recruiting new judges and prosecutors using the criterion of quality;
- controlling the exits from the system and rationalize the deployments within or outside the system;
- a predictable and equitable development of career, by a transparent selection and improving the initial and continuous training programs, as well as their permanent adjustment

The need to improve human resources management in justice is a strategic objective by which to promote changes in the approach of human resources, approach which shall be achieved according to the following principles: to be realistic, coherent with the aspirations of the system and feasible.

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